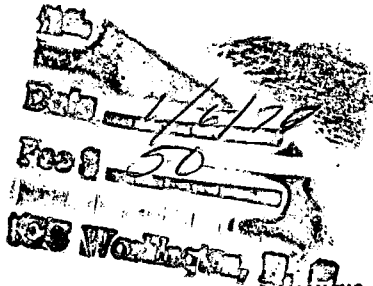


Pickens Railroad Company
402 Cedar Rock Street
Pickens, South Carolina 29671



RECORDATION NO. 8649-A Filed & Recorded

December 29, 1976

JAN 6 1977 -1 05 PM

~~INTERSTATE COMMERCE COMMISSION~~

RECORDATION NO. 8649 Filed & Recorded

JAN 6 1977 -1 05 PM

~~INTERSTATE COMMERCE COMMISSION~~

Mr. Robert L. Oswald, Secretary
Interstate Commerce Commission
Washington, D. C. 20423

Dear Mr. Oswald:

Pursuant to the provisions of Section 20c of the Interstate Commerce Act, as amended, and the regulations of the Interstate Commerce Commission promulgated thereunder, we are transmitting for filing and recording originals or executed counterparts of the following documents:

1. Conditional Sale Agreement dated as of December 29, 1976, between Whittaker Corporation (Berwick Forge & Fabricating Division), Seller, Pickens Railroad Company, Buyer, and National Railway Utilization Corporation, Guarantor.
2. Agreement and Assignment of Conditional Sale Agreement dated as of December 29, 1976, by Whittaker Corporation (Berwick Forge & Fabricating Division), Assignor, to Sun Life Insurance Company of America, Assignee, together with acknowledgement by Pickens Railroad Company and National Railway Utilization Corporation.

The names and addresses of the parties to the transaction are listed below under the titles of the documents to which they are parties:

CONDITIONAL SALE AGREEMENT:

Whittaker Corporation (Berwick Forge
& Fabricating Division) (Vendor)
P. O. Box 188
Berwick, Pennsylvania 18603

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Rw. Smith
C. Quinter

Mr. Robert L. Oswald, Secretary
December 29, 1976
Page Two

Pickens Railroad Company (Purchaser)
402 Cedar Rock Street
Pickens, South Carolina 29671

National Railway Utilization Corporation (Guarantor)
860 Suburban Station
1617 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103

AGREEMENT AND ASSIGNMENT OF CONDITIONAL SALE AGREEMENT:

Whittaker Corporation (Berwick Forge
& Fabricating Division) (Assignor)
P. O. Box 188
Berwick, Pennsylvania 18603

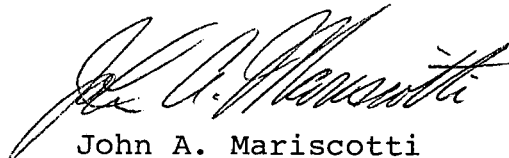
Sun Life Insurance Company of America (Assignee)
Sun Life Building
20 South Charles Street
Baltimore, Maryland 21201

A general description of the equipment covered by the Conditional Sale Agreement is contained in Exhibit A attached to this letter.

The above identified documents have not heretofore been recorded with the Interstate Commerce Commission. Please accept for recordation two counterparts of each document, stamp the remaining counterparts with the appropriate recordation number and return them with your fee receipt and letter confirming receipt to my delivering messenger.

The necessary filing and recordation fees for these documents are submitted herewith.

Very truly yours,



John A. Mariscotti
Vice President

Exhibit A

<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
70 ton, 50'6" Class XM boxcars	70 ton, 50'6" single sheaved boxcars with out- side posts, 10'0" slidding doors, rigid underframe, Class XM, as fur- ther described in Builder's Specifi- cations for Vendee, Lot 34100, dated November 17, 1976	50	NHIR601-650	\$30,995	\$1,549,750	December 30, 1976 at Renovo, Pennsylvania

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

12

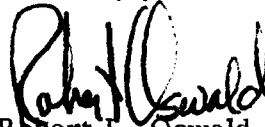
1/6/77

John A. Mariscotti
National Railway Utilization Corp.
1247 Suburban Station
Phila. Pa. 19103

Dear Sir:

The enclosed document(s) was recorded pursuant to the
provisions of Section 20(c) of the Interstate Commerce Act,
49 U.S.C. 20(c), on 1/6/77 at 1:05pm ,
and assigned recordation number(s) 8649 & 8649-A at 1:10 8649-B

Sincerely yours,


Robert L. Oswald
Secretary

Enclosure(s)

SE-30
(5/76)

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~~INTERSTATE COMMERCE COMMISSION~~

CONDITIONAL SALE AGREEMENT dated as of December 29,

1976 (the "Agreement"), among WHITTAKER CORPORATION (BERWICK FORGE & FABRICATING DIVISION) (the "Vendor" or "Builder" as more particularly set forth in Article 1 hereof), PICKENS RAILROAD COMPANY (the "Vendee") and NATIONAL RAILWAY UTILIZATION CORPORATION (the "Guarantor").

WHEREAS, the Builder agrees to construct, sell and deliver to the Vendee, and the Vendee agrees to purchase, the railroad equipment described in Exhibit A hereto (the "Equipment"); and

WHEREAS, the Guarantor is willing to guaranty to the Vendor the due and punctual payment of all sums payable by, and the due and punctual performance of all other obligations of, the Vendee under this Agreement and has joined in this Agreement for the purpose of setting forth the terms and conditions of such guaranty and making certain further agreements as hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Definitions. The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the

time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder will sell and deliver to the Vendee, and the Vendee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Exhibit A hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, the Vendee and the Guarantor (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such units of the Equipment, and each unit of the Equipment will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of the Equipment to the Vendee at the place or places specified in Exhibit A hereto (or if Exhibit A does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Exhibit A hereto; provided, however, that no delivery of any unit of the Equipment shall be made until this Agreement has been filed pursuant to Section 20c of the Interstate Commerce Act; provided further, that Builder shall have no obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clauses (d) or (e) of Article 19 hereof or the occurrence of any event of default (as described in Article 19 hereof) or event which, with the lapse of time and/or demand, could constitute such an event of default.

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Upon completion of each unit or a number of units

of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspectors or an authorized representative of the Vendee (who may be an employee of the Guarantor) shall execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 13 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 17 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 17 hereof.

ARTICLE 4. Payment. Exhibits C and D attached hereto contain the daily time charges, per line-haul mile charges and incentive per diem charges now in effect for the Equipment under Interstate Commerce Commission Rules and Regulations (the "I.C.C. Rules"), and all of these charges are hereinafter referred to as the Base Year Charges. In consideration of the manufacture and delivery of the Equipment, the Vendee hereby

promises to pay in cash to the Vendor at such place as the Vendor may designate from time to time, the following (hereinafter called the Purchase Price):

(a) The principal sum of One Million Five Hundred Forty-Nine Thousand Seven Hundred and Fifty Dollars (\$1,549,750) (hereinafter called the Conditional Sale Indebtedness) in fifty-two (52) consecutive quarterly installments, commencing on April 6, 1977, and payable on each July 6, October 6, January 6, and April 6, thereafter (each such date being hereinafter called a Payment Date). The unpaid balance of the Conditional Sale Indebtedness shall bear interest from January 6, 1977 at the rate of 11% per annum (computed on the basis of a 360-day year of 30-day months) and such interest shall be payable, to the extent accrued, on each Payment Date thereafter. The installments of principal payable on each Payment Date shall be calculated so that the aggregate of principal and interest payable on each Payment Date shall be substantially equal and such installments of principal shall completely amortize the Conditional Sale Indebtedness. The Vendor will furnish to the Vendee and the Guarantor a schedule, in such number of counterparts as shall be requested by the Vendee, showing the respective amounts of principal and interest payable on each Payment Date pursuant to this clause (a). The entire unpaid principal and interest shall be due and payable on January 6, 1990.

(b) On each Payment Date an amount equal to twenty-five percent (25%) of each of the following: (i) an amount equal to the increase, if any, in the daily time charges in effect on the Payment Date for the Equipment under the I.C.C. Rules over the daily time charges which would be applicable to the Equipment if the Base Year Charges were still in effect, multiplied by the weighted average daily number of units of Equipment in existence during the 3-month period ended 5 days preceding such Payment Date, multiplied by the number of days in such 3-month period; (ii) an amount equal to the increase, if any, in the incentive per diem charges in effect on each day during

the 3-month period ended 5 days preceding such Payment Date for the Equipment under the I.C.C. Rules over the incentive per diem charges that would be applicable to the Equipment if the Base Year Charges were still in effect, multiplied by the number of units of Equipment in existence on each day during such 3-month period; (iii) an amount equal to the increase in the charge per line-haul mile in effect on the Payment Date for the Equipment under I.C.C. Rules over the charge per line-haul mile which would be applicable to the Equipment if the Base Year Charges were still in effect, multiplied by the weighted average daily number of units of Equipment in existence during the three month period ending 5 days preceding such Payment Date, multiplied by the average number of miles traveled per day by each boxcar in Vendee's fleet during the 3-month period ending with the immediately preceding Payment Date, multiplied by the number of days in the 3-month period ending 5 days preceding the current Payment Date and (iv) an amount equal to the amount by which the average number of miles traveled per day by each boxcar in Vendee's fleet during the three month period ending with the immediately preceding Payment Date exceeds Sixty-three (63) miles, multiplied by the weighted average daily number of units of Equipment in existence during the 3-month period ending 5 days preceding such Payment Date, multiplied by the weighted average daily charge per line-haul mile in effect during such 3-month period for the Equipment under I.C.C. Rules, multiplied by the number of days in the 3-month period ending 5 days preceding the current Payment Date. The aggregate amount payable under this clause (b) is hereinafter called the Daily Indebtedness. In calculating payments due under this clause (b), no reductions or offsets of any kind shall be made for any decreases of any charges or payments from Base Year Charges, and each calculation shall be made separately, without offset or deduction of any kind. In the event of any change in the form or substance of the charges referred to in clauses (i), (ii), (iii) or (iv) of this clause (b), by I.C.C. Rules or otherwise, payments under this clause (b) shall thereafter be made on such basis as shall most nearly result in an equivalent payment of 25% of the increases in revenues from the elements of usage and value specified in the foregoing.

(c) Vendor shall at any time have the option to direct the Vendee to pay all or any of the amounts required to be paid under clause (b) directly to an escrow or trust account under which such funds shall accumulate and be devoted solely to the acquisition of new railroad equipment for, and which shall be solely owned by, the Vendor or its designee. The nature of any such account and payments thereto, and the manner, time and means of acquiring such equipment, shall be subject to the sole direction of Vendor.

The Vendee will pay interest, to the extent legally enforceable, at the rate of 12% per annum upon all matters remaining unpaid after the same shall have been due and payable pursuant to the terms hereof or such lesser amounts as shall be legally enforceable, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in lawful money of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 9 hereof, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

ARTICLE 5. Title to the Equipment. The Vendor shall and hereby does retain the full security title to and a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Guarantor as provided in this Agreement. Any and all additions to the Equipment and all parts installed

on and additions and replacements made to any unit of the Equipment shall constitute accessions to the Equipment and shall be subject to all the terms and conditons of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 9 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, and all the Vendee's obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However the Vendor, if so requested by the Vendee at that time, will (a) execute a bill or bills of sale for the Equipment transferring its title thereto and property therein to the Vendee, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Vendee at its address referred to in Article 25 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 9 here-

of and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6. Additonal Security. As additional security for the payment and performance of all obligations of the Vendee under this Agreement, Vendee hereby assigns and grants to the Vendor a security interest in the Equipment and in all of Vendee's right, title, and interest in and to the contract rights, chattel paper, accounts, rentals, fees, charges, income and proceeds arising from or in connection with the use of the Equipment. The security interest in all of Vendee's right, title, and interest in and to the contract rights, chattel paper, accounts, rentals, fees, charges, income and proceeds arising from or in connection with the use of the Equipment provided by the Vendee to the Vendor under this Article 6 shall hereinafter be called the "Additional Security".

ARTICLE 7. Vendee's Representations and Warranties.

The Vendee and the Guarantor each warrants and represents to the Vendor as follows:

(a) The Vendee is a duly organized and existing corporations in good standing under the laws of its jurisdictions of incorporation and has the power and authority to own its properties and carry on its business as now conducted and to enter into, execute and deliver this Agreement and to perform each and all the matters and things provided for herein.

(b) This Agreement has been duly authorized by all necessary corporate action on the part of the Vendee, and has been duly executed and delivered by the duly authorized officers of the Vendee and constitutes a legal, valid and binding obligation of the Vendee enforceable against the Vendee in accordance with its terms.

(c) The Vendee has filed all tax returns required by law to be filed and has paid all taxes, assessments and other governmental charges required to be paid by it.

(d) There is no action, proceeding or investigation pending or threatened (or by basis therefor) which, either in any case or in the aggregate, will result in any material adverse change in the condition, business or prospects of the Vendee or in its properties or assets, or in any material liability on the part of the Vendee, or which questions the validity of this Agreement or any action taken or to be taken in connection herewith.

(e) The Vendee is not in violation of any provision of its Charter, by-laws, or this Agreement, or, in any material respect, any other document to which it is a party,

and the execution, delivery and performance of this Agreement will not result in the violation of any such provision.

(f) The Vendee is not in violation of any statute, ordinance, rule, regulation, judgment, decree, order, license or permit applicable to it or the activities proposed to be conducted by it, and no consent, approval or authorization by any governmental authority is required in connection with the execution, delivery and performance of this Agreement.

(g) The Vendee or any lessee of the Equipment has complied, and at all times shall comply, with all provisions of Part 1036, Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations - Incentive Per Diem Charges on Box Cars, and is qualified and at all times shall be qualified, to the extent provided therein, to collect incentive per diem charges on the Equipment in the possession of other railroads, and the Vendee or any lessee of the Equipment is and will be entitled to apply the incentive per diem charges to the payment of the Conditional Sale Indebtedness.

(h) Except for the security interest granted by this Agreement, there are no other liens, encumbrances or security interests which shall attach to the Equipment upon delivery of the same to Vendee.

(i) This Agreement and any assignment thereof have been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recordation will protect the Vendor's

interest in and to the Equipment under this Agreement and no filing, recording or deposit with any other federal, state or local government is necessary in order to protect the first lien ownership and first security interests of the Vendor in and to the Equipment in the United States of America; and the financing statements necessary to perfect the Vendor's first security interest in the Additional Security have each been duly recorded and filed in the appropriate offices and places and no other filing or recording is necessary to perfect the Vendor's first security interest in the Additional Security.

ARTICLE 8. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than net income taxes, gross receipts taxes [except gross receipts taxes in the nature of or in lieu of sales, use or rental taxes], franchise taxes measured by net income based upon such receipts, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Vendee assumes and agrees to pay on demand. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the

earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the title of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the title, property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved the payment thereof.

ARTICLE 9. Maintenance; Casualty Occurrences; and Insurance. The Vendee agrees that, at its own cost and expense, it will maintain and keep each unit of the Equipment in good order and repair.

In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, or, in the opinion of the Vendee irreparably damaged, from any cause whatsoever, or

taken or requisitioned by condemnation or otherwise (such occurrences being herein called Casualty Occurrences), the Vendee shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied to prepay without penalty or premium, ratably in accordance with the unpaid balance of each installment, the Conditional Sale Indebtedness and the Vendor will promptly furnish to the Vendee and the Guarantor a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendee may request, calculated as provided in clause (a) of Article 4 hereof.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Ven-

dee will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee of such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Conditional Sale Indebtedness thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of the Conditional Sale Indebtedness in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original price of such unit as set forth in Exhibit A bears to the aggregate original Conditional Sale Indebtedness.

Vendee will maintain at all times during the effective period of this Agreement with respect to the Equipment, fire and all risk physical damage insurance in an amount equal to the total Casualty Value of all the Equipment and public liability insurance for an amount of not less than \$3,000,000 for each person and \$3,000,000 for each occurrence, all such insurance containing such terms, and in such form, for such purposes and written by such companies as may be satisfactory to Vendor,

payable to Vendor as its interest may appear or as additional insured, and Vendee will deliver to Vendor at its request evidence satisfactory to Vendor that such insurance has been so procured and made payable to Vendor. If Vendee fails to maintain satisfactory insurance, Vendor shall have the option to do so and Vendee agrees to repay with interest at the rate of 12% per annum, all amounts so expended by Vendor.

ARTICLE 10. Obligations of Guarantor. The Guarantor, for value received, hereby unconditionally guarantees to the Vendor by endorsement (through its execution hereof) the due and punctual payment of the Conditional Sale Indebtedness, together with interest thereon, and the Daily Indebtedness and unconditionally guarantees the due and punctual performance of all obligations of the Vendee under this Agreement and unconditionally guarantees to the Vendor that all sums payable by the Vendee under this Agreement will be promptly paid when due, together with interest thereon as herein provided, whether at stated maturity or by declaration or otherwise, and in case of default by the Vendee in any such obligations or payments the Guarantor agrees punctually to perform or pay the same, irrespective of any enforcement against the Vendee of any of the rights of the Vendor hereunder.

The Guarantor hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or en-

forceability of this Agreement or any other circumstances which might otherwise constitute a legal or equitable discharge of a surety or guarantor or any other circumstances which might otherwise limit the recourse of the Vendor against the Vendee. The Guarantor hereby waives diligence, presentment, demand or payment, protest, any notice of any assignment hereof in whole or in part or of any default hereunder and all notices with respect to this Agreement and all demands whatsoever hereunder. No waiver by the Vendor of any of its rights hereunder and no action by the Vendor to enforce any of its rights hereunder or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

In the event that the Guarantor shall make any payments to the Vendor on account of its guaranty hereunder, the Guarantor hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Vendee or with respect to any of the units of the Equipment by reason of such payments, all such rights being hereby irrevocably released, discharged and waived by the Guarantor; provided, however, that after the payment of the Guarantor to the Vendor of all sums payable under this Agreement, the Guarantor shall, by subrogation, be entitled to the rights of the Vendor against the Vendee by reason of such payment.

ARTICLE 11. Guarantor's Representations and Warranties. The Guarantor warrants and represents to the Vendor as follows:

(a) The Guarantor is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and carry on its business as now conducted and to enter into, execute and deliver this Agreement and to guaranty the performance by the Vendee of each and all the matters and things provided for herein.

(b) This Agreement has been duly authorized by all necessary corporate action on the part of the Guarantor, and has been duly executed and delivered by the duly authorized officers of the Guarantor and constitutes a legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms.

(c) The Guarantor has filed all tax returns required by law to be filed and has paid all taxes, assessments and other governmental charges required to be paid by it.

(d) There is no action, proceeding or investigation pending or threatened (or any basis therefor), including the matter disclosed in a letter from Wyche, Burgess, Freeman & Parham to Sun Life Insurance Company of America dated December 23, 1976, which, either in any case or in the aggregate, will result in any material adverse change in the condition, business or prospects of the Guarantor or in its properties or assets, or in any material liability on the part of the Guarantor, or which questions the validity of this Agreement or any action taken or to be taken in connection herewith.

(e) The Guarantor is not in violation of any provision of its Charter, by-laws, or this Agreement, or, in any material respect, any other document to which it is a party, and the execution, delivery and performance of this Agreement will not result in the violation of any such provision.

(f) The Guarantor is not in violation of any statute, ordinance, rule, regulation, judgment, decree, order, license or permit applicable to it to the activities proposed to be conducted by it, and no consent, approval or authorization by any governmental authority is required in connection with the execution, delivery and performance of this Agreement.

ARTICLE 12. Reports and Inspection. On or before March 31 in each year, commencing with the calendar year 1977, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and number of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request, including, but not limited to, the names, initials or other insignia at that time identifying each unit of Equipment and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and

markings required by Article 13 hereof have been preserved or replaced.

Within 90 days after the end of each of its fiscal years and within 45 days after the end of each of its first three fiscal quarters, the Guarantor and the Vendee shall each deliver to the Vendor balance sheets as of the end of such year or quarter and a statement of income and changes in financial position for the year or quarter then ended, consolidated in the case of the Guarantor and separately in the case of the Vendee. The annual statements shall be audited without exception as to scope and reported upon by independent certified public accountants reasonably satisfactory to the Vendor; the quarterly statements shall be unaudited but shall be certified by the chief financial officer of the Guarantor and the Vendee, respectively. Each such statement shall be accompanied by a certificate of the chief financial officers of the Vendee and the Guarantor stating that during the period from beginning of the period covered by the statement of income through the date of the certificate no default or event of default existed or, if so, describing in reasonable detail the nature and extent thereof stating whether or not the same has been cured. Each such audited statement shall be accompanied by a letter from the independent certified public accountants reporting thereon stating whether or not the normal course of their audit disclosed any such default or events of default and, if so, describing the nature and extent thereof and stating whether or not the

same has been cured.

The Vendor shall have the right, by its agents, to inspect the Equipment and the books and records of the Vendee, the Guarantor and any of their parents or affiliates, as well as all records pertinent to the Equipment of any lessees or lessors of the Equipment, at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 13. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the identifying number as set forth in Exhibit A hereto, or, in the case of Equipment not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of each unit in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Ven-

dee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor or filed, recorded or deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded or deposited.

Except as provided in the immediately preceding paragraph, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Vendee, the Guarantor or their affiliates, or by the Lessee or any other lessee under any other lease permitted by Section 15.

ARTICLE 14. Compliance and Laws and Rules. During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessees' operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, admin-

istrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any unit of the Equipment, the Vendee will conform therewith at its own expense; provided, however, that the Vendee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 15. Possession and Use. So long as the Vendee shall not be in default under this Agreement, the Vendee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Agreement, but, without the prior written consent of the Vendor, the Vendee shall not assign or transfer its interest under this Agreement in the Equipment or any unit thereof except as provided in this Article 15. Vendee shall not, on a regular basis, operate or use any unit of the Equipment outside the United States of America, nor shall it permit others to operate or use, on a regular basis, any unit of the Equipment outside the United States of America.

So long as the Vendee shall not be in default under this Agreement, the Vendee shall also be entitled (i) to the use of the Equipment by it or any affiliate upon lines of a railroad owned or operated by it or any affiliate or upon lines of a railroad over which the Vendee or any such affiliate has track-

age or any other operating rights or over which railroad equipment of the Vendee or any such affiliate is regularly operated pursuant to contract, (ii) to permit the use of the Equipment upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, and (iii) to lease any unit or units of the Equipment to other railroad companies incorporated under the laws of any state of the United States or the District of Columbia, for use in connection with their operations, provided, however, that all of the following are satisfied:

(a) the Vendee and any lessee under any lease shall not assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America.

(b) such lease shall provide that the rights of such lessee are made expressly subordinate to the rights and remedies of the Vendee under this Agreement.

(c) the lessee under any such lease has complied with all provisions of Part 1036, Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations - Incentive per Diem Charges on Box Cars, and is eligible and entitled to the extent provided therein, to collect incentive per diem charges on the Equipment in the possession of other railroads, and to apply the incentive per diem charges to the payment of all rentals due under the lease.

(d) a copy of such lease shall be furnished to the Vendor.

The Vendee may receive and retain compensation (subject to the provisions of Article 4 hereof) for such use from other railroads and companies so using any of the Equipment.

Nothing in this Article 15 shall be deemed to restrict the right of the Vendee to assign or transfer its interest under this Agreement in the Equipment for possession of the Equipment to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Vendee hereunder) into or with which the Vendee shall have become merged or consolidated or which shall have acquired the property of the Vendee as an entirety or substantially as an entirety, provided that the assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Agreement; provided further that any such railroad corporation shall be of a character so that, after giving effect to any such transaction, the credit standing of the Vendee, assignee or transferee shall not, in the Vendor's reasonable judgment, be adversely affected as it may affect Vendor's rights hereunder.

ARTICLE 16. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be

required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due or delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 17. Indemnities and Warranties. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expense in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention of the Vendor of title to and a security interest in the Equipment, and the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, or any accident in

connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement. The covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the conveyance of security title to, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

The Vendee will bear the responsibility for and risk of and shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of any unit of or all the Equipment.

The agreement of the parties relating to the Builder's warranty and material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Exhibit B attached hereto and made a part hereof.

ARTICLE 18. Assignments. The Vendee will not (a) except as provided in Article 15 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Vendor hereunder (including, with-

out limitation, rights and remedies against the Vendee and the Guarantor) and (ii) provides that the Vendee shall remain liable for all the obligations of the Vendee under this Agreement. Subject to the preceding sentence, any such sale, assignment, transfer or disposition may be made by the Vendee without the assignee or transferee assuming any of the obligation of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee and the benefits arising from the undertakings of the Guarantor hereunder, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities contained or referred to in Article 17 hereof, or relieve the Vendee or the Guarantor of their respective obligations to the Builder contained in Articles 2, 3, 8, 10 and 17 hereof and this Article 18, or any other obligations which, according to its terms and context, is intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Vendee and the Guarantor, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee,

and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee and the Guarantor, respectively, of the notification of any such assignment, all payments thereafter to be made by the Vendee or the Guarantor under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Vendee and the Guarantor recognize that it is the custom of railroad equipment manufacturers or sellers to assign agreements of this character and understand that this Agreement, or of some of or all the rights of the Vendee hereunder, will be assigned to the Sun Life Insurance Company of America (the "Assignee") pursuant to an Agreement and Assignment of even date herewith. The Vendee and the Guarantor expressly represent, for the purpose of assurance to the Assignee or any other person, firm or corporation who may from time to time acquire this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee or any other future assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever

arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Guarantor by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Guarantor, as the case may be, against and only against the Builder.

The Vendee and the Guarantor will (a) in connection with the settlement for the Equipment, deliver to the assignee, at the time of the delivery of the Equipment, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, and (b) furnish to such assignee such number of counterparts of any other certificate or paper required by the Vendor as may reasonably be requested.

ARTICLE 19. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) The Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder and such default shall continue for 15 days; or

(b) The Vendee or the Guarantor shall, for more than 35 days after the Vendee shall have received written demand for performance

thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provisions satisfactory to the Vendor for such compliance; or

(c) Any material representation or warranty of the Vendee or the Guarantor in this Agreement shall prove to be incorrect in any material respect on the date as of which made; or

(d) Any proceeding shall be commenced by or against the Vendee or the Guarantor for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Vendee or the Guarantor under this Agreement), and the earlier of the following shall occur (i) such proceedings shall not have been dismissed, nullified, stayed or otherwise rendered ineffective within sixty (60) days after such proceedings shall have been commenced (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), or (ii) all the obligations of the Vendee or the Guarantor, as the case may be, under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Vendee or the Guarantor, as the case may be, or for their respective property in connection with any such proceedings, within 30 days after such appointments and in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers; or

(e) The Vendee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an event of de-

fault the Vendor may, upon receipt of written notice by the Vendee and the Guarantor and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a Declaration of Default) the entire unpaid indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee or the Guarantor wherever situated. The Vendee or the Guarantor, as the case may be, shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Vendee and the

Guarantor in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee and the Guarantor that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 20. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, in compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee or the Guarantor any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 20 expressly provided, and may remove the same from possession and use of the Vendee, any lessee or any other person and for such purpose may enter upon the premises of the Vendee or the Guarantor or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee or the Guarantor.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points on the lines or premises of the Vendee or on any lines of railroad or other premises approved by the Vendor for the delivery of the Equipment to the Vendor, the Vendee or the Guarantor shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points and shall there deliver the Equipment or cause it to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises which, or the use of which, are owned or controlled by the Vendee or the Guarantor, (directly or indirectly) or on any lines of railroad or other premises approved by the Vendor and reasonably convenient to Vendee and Guarantor for a period not exceeding six months, provided however, that such storage shall be on the lines of other railroads or other premises approved by Vendor if the storage on the Vendee's or Guarantor's line would interfere with the operation of the railroads of the Vendee and the Guarantor. The Vendee and the Guarantor agree either to provide the facilities necessary for such storage or to pay all costs and expenses of such storage, and that such storage shall be at no cost or expense to the Vendor. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall

be entitled to a decree against the Vendee and/or the Guarantor requiring specific performance hereof. The Vendee and the Guarantor hereby expressly waive any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 20 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Guarantor by telegram or registered mail, addressed as provided in Article 25 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee and the Guarantor may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to

be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement, including reasonable attorney's fees and all expenses of the Vendor on retaking possession of, removing, storing and holding the Equipment, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee, provided further, that if the Vendee or the Guarantor object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 20.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Vendee, the Guarantor and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Guarantor or any other party claim-

ing from, through or under the Vendee or the Guarantor at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The

Vendee and the Guarantor shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed as provided in Article 25 hereof. If such sale shall be a private sale, it shall be subject to the rights of the Vendee and the Guarantor to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. The Vendor, the Vendee or the Guarantor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. In the event that the Vendor shall be the purchaser thereof, it shall not be accountable to the Vendee or the Guarantor (except to the extent of surplus money received as hereinafter provided in this Article 20), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no re-

newal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee or the Guarantor shall not otherwise alter or affect the Vendor's rights or the Vendee's or the Guarantor's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's or the Guarantor's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee or the Guarantor, as the case may be, to the extent of their respective interests therein.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that

the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 20 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 21. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee and the Guarantor to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Vendee and the Guarantor, to the full extent permitted by law, hereby waive all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 22. Recording. The Vendee or the Guarantor

tor will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act; the Vendee or the Guarantor will also cause any financing statement with respect to this Agreement to be filed and recorded in the form and manner required by law in all offices and places necessary to perfect the lien on and security interest in the Equipment and Additional Security; and the Vendee and the Guarantor will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further information required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to and security interest in the Equipment, its security interest in the Additional Security and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement. The Vendee and the Guarantor will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 23. Payment of Expenses. The Vendee will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builder) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related hereto or thereto, including all fees and expenses of

counsel for the first assignee of the Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by a party of interests acquired in such first assignment.

ARTICLE 24. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Exhibits hereto, exclusively and completely states the rights of the Vendor, the Vendee and the Guarantor with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor, the Vendee and the Guarantor.

ARTICLE 25. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed in the United States by certified or registered mail to it at its chief place of business at the following specified addresses:

(a) to the Vendee, at 402, Cedar Rock Street, Pickens, South Carolina, 29671. Attention: Vice President-Finance.

(b) to the Guarantor, at 860 Suburban Station, 1617 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103,

(c) to the Builder, at P. O. Box 188, Berwick,

Pennsylvania, 18603.

(d) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, and to the Guarantor, by such assignee, or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 26. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Maryland; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 27. Execution. This Agreement may be executed in any number of counterparts numbered consecutively in ascending order, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart, but only the counterpart that is labeled "Counterpart No. 1" shall be deemed to be the original which may be transferred and given to transfer the rights of the Vendor hereunder. Although this Agreement is dated as of the date first above written, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF the parties hereto have executed
or caused this instrument to be executed all as of the date
first above written.



ate Seal]

Donald E. Mc Kinnon

[Corporate Seal]

WHITTAKER CORPORATION (BERWICK FORGE
& FABRICATING DIVISION)

By

[Signature]
Authorized Signatory

By

[Signature]
Authorized Signatory

PICKENS RAILROAD COMPANY

[Corporate Seal]

Attest:

Charles P. Turnbull
Asst Sec.

By

[Signature]
Vice President

NATIONAL RAILWAY UTILIZATION
CORPORATION

[Corporate Seal]

Attest:

Charles P. Turnbull
Asst Sec.

By

[Signature]
Vice President

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY, that on this 29th day of December, 1976, before the subscriber, a Notary Public in and for said City and State personally appeared John A. Mariscotti, who, being by me duly sworn, says that he is a Vice President of Pickens Railroad Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand
and official seal, this 29th day of December, 1976.



[Notarial Seal]

My Commission expires: July 1, 1978

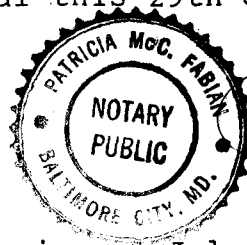
STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY, that on this 29th day of December, 1976, before the subscriber, a Notary Public in and for said City and State personally appeared John A. Karisatti who, being by me duly sworn, says that he is a Vice President

of National Railway Utilization Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 29th day of December, 1976

[Notarial Seal]



Patricia McG. Fabian
Notary Public

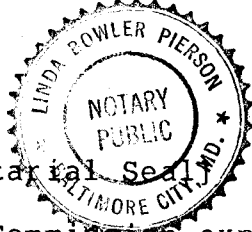
My Commission expires: July 1, 1978

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY, that on this 28th day of December, 1976, before the subscriber, a Notary Public in and for said City and State personally appeared *George T. Forese*, who, being by me duly sworn, says that he is a Authorized Signatory of Whittaker Corporation (Berwick Forge & Fabricating Division) that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution

of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 28th day of December, 1976.



[Notarial Seal]

Linda Bowler Pierson
Notary Public

My Commission expires: July 1, 1978

State of Pennsylvania)
) SS:
County of Columbia)

I HEREBY CERTIFY, that on this 4th day of January, 1977, before the subscriber, a Notary Public in and for said County and State personally appeared James J. Malatras , who, being by me duly sworn, says that he is an Authorized Signatory of Whittaker Corporation (Berwick Forge & Fabricating Division) that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and

official seal, this 4TH day of January, 1977.

Lloyd H. Adams
Notary Public

[Notarial Seal]

My Commission expires:

LOYD H. ADAMS, NOTARY PUBLIC
BERWICK BOROUGH, COLUMBIA COUNTY
MY COMMISSION EXPIRES SEPT. 19, 1978
Member, Pennsylvania Association of Notaries

Exhibit A
to
Conditional Sale Agreement

<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
70 ton, 50'6" Class XM boxcars	70 ton, 50'6" single sheaved boxcars with out- side posts, 10'0" slidding doors, rigid underframe, Class XM, as fur- ther described in Builder's Specifi- cations for Vendee, Lot 34100, dated November 17, 1976	50	NHIR601-650	\$30,995	\$1,549,750	December 30, 1976 at Renovo, Pennsylvania

Exhibit B
to
Conditional Sale Agreement

Warranty of Builder

The Builder warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Article 2 and Exhibit A of the Conditional Sale Agreement to which this Warranty is attached (hereinafter called the Agreement) and warrants its Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Vendee and not manufactured by the Builder) and workmanship and design (except as to designs specified by the Vendee and not developed by the Builder) under normal use and service, the Builder's obligation under this Warranty being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit of Equipment to the Vendee, be returned to the Builder with transportation charges prepaid and which examination by the Builder shall disclose to its satisfaction to have been thus defective. In no event shall the Builder be liable to anyone for any incidental, special or consequential damages of any kind.

THE FOREGOING WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND THE BUILDER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT EXCEPT FOR THE PATENT INDEMNIFICATION STATED BELOW.

The Builder shall defend at its expense any suit or proceeding brought against the Vendee based upon any claims that the Equipment (or any part thereof) which is manufactured under this Agreement infringes any United States patent, and pay any damages and costs awarded therein against the Vendee, not to exceed the contract price paid to the Builder by the Vendee, if properly notified by the Vendee in writing of such claims and given authoritative information and assistance by the Vendee to conduct such defense. If in such suit the use of the Equipment (or any part thereof) is enjoined, Builder shall either at its expense and option procure for the Vendee the right to use the Equipment (or any part thereof) or modify them so that they no longer infringe, or replace them

of like type and quality and entitled to the same boxcar daily charges, per line-haul mile charges and incentive per diem charges then in effect for the Equipment.

The Builder further agrees with the Vendee that neither the inspection provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of its Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Vendee of any of its rights under this Warranty.

Exhibit C

to

Conditional Sale Agreement

BOXCAR HIRE RATE TABLE

As Prescribed in I.C.C. Docket No. 33145, Circular No. C

	*0-30 YEARS	*0-5 YEARS	*6-10 YEARS	*11-15 YEARS	*16-20 YEARS	*21-25 YEARS
COST OF BOXCAR (DOLLARS)	CHARGE PER LINE-HAUL MILE (CENTS)	DAILY TIME CHARGE (DOLLARS)	DAILY TIME CHARGE (DOLLARS)	DAILY TIME CHARGE (DOLLARS)	DAILY TIME CHARGE (DOLLARS)	DAILY TIME CHARGE (DOLLARS)
000000 - 001000	2.31	1.47	1.43	1.39	1.35	1.31
001001 - 003000	2.38	1.77	1.69	1.61	1.53	1.45
003001 - 005000	2.51	2.36	2.20	2.04	1.89	1.73
005001 - 007000	2.65	2.96	2.72	2.48	2.24	2.00
007001 - 009000	2.78	3.55	3.23	2.92	2.60	2.28
009001 - 011000	2.92	4.14	3.75	3.35	2.96	2.56
011001 - 013000	3.05	4.74	4.26	3.79	3.31	2.84
013001 - 015000	3.19	5.33	4.78	4.22	3.67	3.11
015001 - 017000	3.32	5.93	5.29	4.66	4.02	3.39
017001 - 019000	3.45	6.52	5.81	5.09	4.38	3.67
019001 - 021000	3.59	7.11	6.32	5.53	4.74	3.95
021001 - 023000	3.72	7.71	6.84	5.97	5.09	4.22
023001 - 025000	3.86	8.30	7.35	6.40	5.45	4.50
025001 - 027000	3.99	8.90	7.87	6.84	5.81	4.78
027001 - 029000	4.13	9.49	8.38	7.27	6.16	5.05
029001 - 031000	4.26	10.09	8.90	7.71	6.52	5.33
031001 - 033000	4.40	10.68	9.41	8.14	6.88	5.61
033001 - 035000	4.53	11.27	9.93	8.58	7.23	5.89

*Age of boxcar from date of purchase.

Exhibit D
to
Conditional Sale Agreement

Incentive Per Diem Charges on Class XM Boxcars
Part 1036, Subchapter A of Chapter X of Title 49 of
the Code of Federal Regulations

Cost of Boxcar	**Group A 0-5 years	**Group B 6-10 years	**Group C 11-15 years	**Group D 16-20 years	**Group E 21-25 years	**Group F 26-30 years	**Group G over 30 years
\$29,000-\$31,000*	9.74	8.16	6.58	5.00	3.42	1.84	1.05
\$31,000-\$33,000*	10.39	8.70	7.02	5.33	3.65	1.96	1.19

*The above figures represent the incentive per diem charges on Class XM boxcars for the period of September 1 through and including February 28; for the remainder of the year, the incentive per diem charge on Class XM boxcars is zero.

**Age of boxcar from date of purchase.

CONDITIONAL SALE AGREEMENT dated as of December 29, 1976 (the "Agreement"), among WHITTAKER CORPORATION (BERWICK FORGE & FABRICATING DIVISION) (the "Vendor" or "Builder" as more particularly set forth in Article 1 hereof), PICKENS RAILROAD COMPANY (the "Vendee") and NATIONAL RAILWAY UTILIZATION CORPORATION (the "Guarantor").

WHEREAS, the Builder agrees to construct, sell and deliver to the Vendee, and the Vendee agrees to purchase, the railroad equipment described in Exhibit A hereto (the "Equipment"); and

WHEREAS, the Guarantor is willing to guaranty to the Vendor the due and punctual payment of all sums payable by, and the due and punctual performance of all other obligations of, the Vendee under this Agreement and has joined in this Agreement for the purpose of setting forth the terms and conditions of such guaranty and making certain further agreements as hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Definitions. The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the

time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder will sell and deliver to the Vendee, and the Vendee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Exhibit A hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, the Vendee and the Guarantor (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such units of the Equipment, and each unit of the Equipment will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of the Equipment to the Vendee at the place or places specified in Exhibit A hereto (or if Exhibit A does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Exhibit A hereto; provided, however, that no delivery of any unit of the Equipment shall be made until this Agreement has been filed pursuant to Section 20c of the Interstate Commerce Act; provided further, that Builder shall have no obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clauses (d) or (e) of Article 19 hereof or the occurrence of any event of default (as described in Article 19 hereof) or event which, with the lapse of time and/or demand, could constitute such an event of default.

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Upon completion of each unit or a number of units

of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspectors or an authorized representative of the Vendee (who may be an employee of the Guarantor) shall execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 13 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 17 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 17 hereof.

ARTICLE 4. Payment. Exhibits C and D attached hereto contain the daily time charges, per line-haul mile charges and incentive per diem charges now in effect for the Equipment under Interstate Commerce Commission Rules and Regulations (the "I.C.C. Rules"), and all of these charges are hereinafter referred to as the Base Year Charges. In consideration of the manufacture and delivery of the Equipment, the Vendee hereby

promises to pay in cash to the Vendor at such place as the Vendor may designate from time to time, the following (hereinafter called the Purchase Price):

(a) The principal sum of One Million Five Hundred Forty-Nine Thousand Seven Hundred and Fifty Dollars (\$1,549,750) (hereinafter called the Conditional Sale Indebtedness) in fifty-two (52) consecutive quarterly installments, commencing on April 6, 1977, and payable on each July 6, October 6, January 6, and April 6, thereafter (each such date being hereinafter called a Payment Date). The unpaid balance of the Conditional Sale Indebtedness shall bear interest from January 6, 1977 at the rate of 11% per annum (computed on the basis of a 360-day year of 30-day months) and such interest shall be payable, to the extent accrued, on each Payment Date thereafter. The installments of principal payable on each Payment Date shall be calculated so that the aggregate of principal and interest payable on each Payment Date shall be substantially equal and such installments of principal shall completely amortize the Conditional Sale Indebtedness. The Vendor will furnish to the Vendee and the Guarantor a schedule, in such number of counterparts as shall be requested by the Vendee, showing the respective amounts of principal and interest payable on each Payment Date pursuant to this clause (a). The entire unpaid principal and interest shall be due and payable on January 6, 1990.

(b) On each Payment Date an amount equal to twenty-five percent (25%) of each of the following: (i) an amount equal to the increase, if any, in the daily time charges in effect on the Payment Date for the Equipment under the I.C.C. Rules over the daily time charges which would be applicable to the Equipment if the Base Year Charges were still in effect, multiplied by the weighted average daily number of units of Equipment in existence during the 3-month period ended 5 days preceding such Payment Date, multiplied by the number of days in such 3-month period; (ii) an amount equal to the increase, if any, in the incentive per diem charges in effect on each day during

the 3-month period ended 5 days preceding such Payment Date for the Equipment under the I.C.C. Rules over the incentive per diem charges that would be applicable to the Equipment if the Base Year Charges were still in effect, multiplied by the number of units of Equipment in existence on each day during such 3-month period; (iii) an amount equal to the increase in the charge per line-haul mile in effect on the Payment Date for the Equipment under I.C.C. Rules over the charge per line-haul mile which would be applicable to the Equipment if the Base Year Charges were still in effect, multiplied by the weighted average daily number of units of Equipment in existence during the three month period ending 5 days preceding such Payment Date, multiplied by the average number of miles traveled per day by each boxcar in Vendee's fleet during the 3-month period ending with the immediately preceding Payment Date, multiplied by the number of days in the 3-month period ending 5 days preceding the current Payment Date and (iv) an amount equal to the amount by which the average number of miles traveled per day by each boxcar in Vendee's fleet during the three month period ending with the immediately preceding Payment Date exceeds Sixty-three (63) miles, multiplied by the weighted average daily number of units of Equipment in existence during the 3-month period ending 5 days preceding such Payment Date, multiplied by the weighted average daily charge per line-haul mile in effect during such 3-month period for the Equipment under I.C.C. Rules, multiplied by the number of days in the 3-month period ending 5 days preceding the current Payment Date. The aggregate amount payable under this clause (b) is hereinafter called the Daily Indebtedness. In calculating payments due under this clause (b), no reductions or offsets of any kind shall be made for any decreases of any charges or payments from Base Year Charges, and each calculation shall be made separately, without offset or deduction of any kind. In the event of any change in the form or substance of the charges referred to in clauses (i), (ii), (iii) or (iv) of this clause (b), by I.C.C. Rules or otherwise, payments under this clause (b) shall thereafter be made on such basis as shall most nearly result in an equivalent payment of 25% of the increases in revenues from the elements of usage and value specified in the foregoing.

(c) Vendor shall at any time have the option to direct the Vendee to pay all or any of the amounts required to be paid under clause (b) directly to an escrow or trust account under which such funds shall accumulate and be devoted solely to the acquisition of new railroad equipment for, and which shall be solely owned by, the Vendor or its designee. The nature of any such account and payments thereto, and the manner, time and means of acquiring such equipment, shall be subject to the sole direction of Vendor.

The Vendee will pay interest, to the extent legally enforceable, at the rate of 12% per annum upon all matters remaining unpaid after the same shall have been due and payable pursuant to the terms hereof or such lesser amounts as shall be legally enforceable, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in lawful money of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 9 hereof, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

ARTICLE 5. Title to the Equipment. The Vendor shall and hereby does retain the full security title to and a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Guarantor as provided in this Agreement. Any and all additions to the Equipment and all parts installed

on and additions and replacements made to any unit of the Equipment shall constitute accessions to the Equipment and shall be subject to all the terms and conditons of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 9 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, and all the Vendee's obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However the Vendor, if so requested by the Vendee at that time, will (a) execute a bill or bills of sale for the Equipment transferring its title thereto and property therein to the Vendee, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Vendee at its address referred to in Article 25 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 9 here-

of and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6. Additonal Security. As additional security for the payment and performance of all obligations of the Vendee under this Agreement, Vendee hereby assigns and grants to the Vendor a security interest in the Equipment and in all of Vendee's right, title, and interest in and to the contract rights, chattel paper, accounts, rentals, fees, charges, income and proceeds arising from or in connection with the use of the Equipment. The security interest in all of Vendee's right, title, and interest in and to the contract rights, chattel paper, accounts, rentals, fees, charges, income and proceeds arising from or in connection with the use of the Equipment provided by the Vendee to the Vendor under this Article 6 shall hereinafter be called the "Additional Security".

ARTICLE 7. Vendee's Representations and Warranties.

The Vendee and the Guarantor each warrants and represents to the Vendor as follows:

(a) The Vendee is a duly organized and existing corporations in good standing under the laws of its jurisdictions of incorporation and has the power and authority to own its properties and carry on its business as now conducted and to enter into, execute and deliver this Agreement and to perform each and all the matters and things provided for herein.

(b) This Agreement has been duly authorized by all necessary corporate action on the part of the Vendee, and has been duly executed and delivered by the duly authorized officers of the Vendee and constitutes a legal, valid and binding obligation of the Vendee enforceable against the Vendee in accordance with its terms.

(c) The Vendee has filed all tax returns required by law to be filed and has paid all taxes, assessments and other governmental charges required to be paid by it.

(d) There is no action, proceeding or investigation pending or threatened (or by basis therefor) which, either in any case or in the aggregate, will result in any material adverse change in the condition, business or prospects of the Vendee or in its properties or assets, or in any material liability on the part of the Vendee, or which questions the validity of this Agreement or any action taken or to be taken in connection herewith.

(e) The Vendee is not in violation of any provision of its Charter, by-laws, or this Agreement, or, in any material respect, any other document to which it is a party,

and the execution, delivery and performance of this Agreement will not result in the violation of any such provision.

(f) The Vendee is not in violation of any statute, ordinance, rule, regulation, judgment, decree, order, license or permit applicable to it or the activities proposed to be conducted by it, and no consent, approval or authorization by any governmental authority is required in connection with the execution, delivery and performance of this Agreement.

(g) The Vendee or any lessee of the Equipment has complied, and at all times shall comply, with all provisions of Part 1036, Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations - Incentive Per Diem Charges on Box Cars, and is qualified and at all times shall be qualified, to the extent provided therein, to collect incentive per diem charges on the Equipment in the possession of other railroads, and the Vendee or any lessee of the Equipment is and will be entitled to apply the incentive per diem charges to the payment of the Conditional Sale Indebtedness.

(h) Except for the security interest granted by this Agreement, there are no other liens, encumbrances or security interests which shall attach to the Equipment upon delivery of the same to Vendee.

(i) This Agreement and any assignment thereof have been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recordation will protect the Vendor's

interest in and to the Equipment under this Agreement and no filing, recording or deposit with any other federal, state or local government is necessary in order to protect the first lien ownership and first security interests of the Vendor in and to the Equipment in the United States of America; and the financing statements necessary to perfect the Vendor's first security interest in the Additional Security have each been duly recorded and filed in the appropriate offices and places and no other filing or recording is necessary to perfect the Vendor's first security interest in the Additional Security.

ARTICLE 8. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than net income taxes, gross receipts taxes [except gross receipts taxes in the nature of or in lieu of sales, use or rental taxes], franchise taxes measured by net income based upon such receipts, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Vendee assumes and agrees to pay on demand. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the

earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the title of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the title, property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved the payment thereof.

ARTICLE 9. Maintenance; Casualty Occurrences; and Insurance. The Vendee agrees that, at its own cost and expense, it will maintain and keep each unit of the Equipment in good order and repair.

In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, or, in the opinion of the Vendee irreparably damaged, from any cause whatsoever, or

taken or requisitioned by condemnation or otherwise (such occurrences being herein called Casualty Occurrences), the Vendee shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied to prepay without penalty or premium, ratably in accordance with the unpaid balance of each installment, the Conditional Sale Indebtedness and the Vendor will promptly furnish to the Vendee and the Guarantor a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendee may request, calculated as provided in clause (a) of Article 4 hereof.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Ven-

dee will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee of such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Conditional Sale Indebtedness thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of the Conditional Sale Indebtedness in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original price of such unit as set forth in Exhibit A bears to the aggregate original Conditional Sale Indebtedness.

Vendee will maintain at all times during the effective period of this Agreement with respect to the Equipment, fire and all risk physical damage insurance in an amount equal to the total Casualty Value of all the Equipment and public liability insurance for an amount of not less than \$3,000,000 for each person and \$3,000,000 for each occurrence, all such insurance containing such terms, and in such form, for such purposes and written by such companies as may be satisfactory to Vendor,

payable to Vendor as its interest may appear or as additional insured, and Vendee will deliver to Vendor at its request evidence satisfactory to Vendor that such insurance has been so procured and made payable to Vendor. If Vendee fails to maintain satisfactory insurance, Vendor shall have the option to do so and Vendee agrees to repay with interest at the rate of 12% per annum, all amounts so expended by Vendor.

ARTICLE 10. Obligations of Guarantor. The Guarantor, for value received, hereby unconditionally guarantees to the Vendor by endorsement (through its execution hereof) the due and punctual payment of the Conditional Sale Indebtedness, together with interest thereon, and the Daily Indebtedness and unconditionally guarantees the due and punctual performance of all obligations of the Vendee under this Agreement and unconditionally guarantees to the Vendor that all sums payable by the Vendee under this Agreement will be promptly paid when due, together with interest thereon as herein provided, whether at stated maturity or by declaration or otherwise, and in case of default by the Vendee in any such obligations or payments the Guarantor agrees punctually to perform or pay the same, irrespective of any enforcement against the Vendee of any of the rights of the Vendor hereunder.

The Guarantor hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or en-

forceability of this Agreement or any other circumstances which might otherwise constitute a legal or equitable discharge of a surety or guarantor or any other circumstances which might otherwise limit the recourse of the Vendor against the Vendee. The Guarantor hereby waives diligence, presentment, demand or payment, protest, any notice of any assignment hereof in whole or in part or of any default hereunder and all notices with respect to this Agreement and all demands whatsoever hereunder. No waiver by the Vendor of any of its rights hereunder and no action by the Vendor to enforce any of its rights hereunder or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

In the event that the Guarantor shall make any payments to the Vendor on account of its guaranty hereunder, the Guarantor hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Vendee or with respect to any of the units of the Equipment by reason of such payments, all such rights being hereby irrevocably released, discharged and waived by the Guarantor; provided, however, that after the payment of the Guarantor to the Vendor of all sums payable under this Agreement, the Guarantor shall, by subrogation, be entitled to the rights of the Vendor against the Vendee by reason of such payment.

ARTICLE 11. Guarantor's Representations and Warranties. The Guarantor warrants and represents to the Vendor as follows:

(a) The Guarantor is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and carry on its business as now conducted and to enter into, execute and deliver this Agreement and to guaranty the performance by the Vendee of each and all the matters and things provided for herein.

(b) This Agreement has been duly authorized by all necessary corporate action on the part of the Guarantor, and has been duly executed and delivered by the duly authorized officers of the Guarantor and constitutes a legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms.

(c) The Guarantor has filed all tax returns required by law to be filed and has paid all taxes, assessments and other governmental charges required to be paid by it.

(d) There is no action, proceeding or investigation pending or threatened (or any basis therefor), including the matter disclosed in a letter from Wyche, Burgess, Freeman & Parham to Sun Life Insurance Company of America dated December 23, 1976, which, either in any case or in the aggregate, will result in any material adverse change in the condition, business or prospects of the Guarantor or in its properties or assets, or in any material liability on the part of the Guarantor, or which questions the validity of this Agreement or any action taken or to be taken in connection herewith.

(e) The Guarantor is not in violation of any provision of its Charter, by-laws, or this Agreement, or, in any material respect, any other document to which it is a party, and the execution, delivery and performance of this Agreement will not result in the violation of any such provision.

(f) The Guarantor is not in violation of any statute, ordinance, rule, regulation, judgment, decree, order, license or permit applicable to it to the activities proposed to be conducted by it, and no consent, approval or authorization by any governmental authority is required in connection with the execution, delivery and performance of this Agreement.

ARTICLE 12. Reports and Inspection. On or before March 31 in each year, commencing with the calendar year 1977, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and number of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request, including, but not limited to, the names, initials or other insignia at that time identifying each unit of Equipment and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and

markings required by Article 13 hereof have been preserved or replaced.

Within 90 days after the end of each of its fiscal years and within 45 days after the end of each of its first three fiscal quarters, the Guarantor and the Vendee shall each deliver to the Vendor balance sheets as of the end of such year or quarter and a statement of income and changes in financial position for the year or quarter then ended, consolidated in the case of the Guarantor and separately in the case of the Vendee. The annual statements shall be audited without exception as to scope and reported upon by independent certified public accountants reasonably satisfactory to the Vendor; the quarterly statements shall be unaudited but shall be certified by the chief financial officer of the Guarantor and the Vendee, respectively. Each such statement shall be accompanied by a certificate of the chief financial officers of the Vendee and the Guarantor stating that during the period from beginning of the period covered by the statement of income through the date of the certificate no default or event of default existed or, if so, describing in reasonable detail the nature and extent thereof stating whether or not the same has been cured. Each such audited statement shall be accompanied by a letter from the independent certified public accountants reporting thereon stating whether or not the normal course of their audit disclosed any such default or events of default and, if so, describing the nature and extent thereof and stating whether or not the

same has been cured.

The Vendor shall have the right, by its agents, to inspect the Equipment and the books and records of the Vendee, the Guarantor and any of their parents or affiliates, as well as all records pertinent to the Equipment of any lessees or lessors of the Equipment, at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 13. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the identifying number as set forth in Exhibit A hereto, or, in the case of Equipment not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of each unit in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Ven-

dee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor or filed, recorded or deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded or deposited.

Except as provided in the immediately preceding paragraph, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Vendee, the Guarantor or their affiliates, or by the Lessee or any other lessee under any other lease permitted by Section 15.

ARTICLE 14. Compliance and Laws and Rules. During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessees' operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, admin-

istrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any unit of the Equipment, the Vendee will conform therewith at its own expense; provided, however, that the Vendee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 15. Possession and Use. So long as the Vendee shall not be in default under this Agreement, the Vendee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Agreement, but, without the prior written consent of the Vendor, the Vendee shall not assign or transfer its interest under this Agreement in the Equipment or any unit thereof except as provided in this Article 15. Vendee shall not, on a regular basis, operate or use any unit of the Equipment outside the United States of America, nor shall it permit others to operate or use, on a regular basis, any unit of the Equipment outside the United States of America.

So long as the Vendee shall not be in default under this Agreement, the Vendee shall also be entitled (i) to the use of the Equipment by it or any affiliate upon lines of a railroad owned or operated by it or any affiliate or upon lines of a railroad over which the Vendee or any such affiliate has track-

age or any other operating rights or over which railroad equipment of the Vendee or any such affiliate is regularly operated pursuant to contract, (ii) to permit the use of the Equipment upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, and (iii) to lease any unit or units of the Equipment to other railroad companies incorporated under the laws of any state of the United States or the District of Columbia, for use in connection with their operations, provided, however, that all of the following are satisfied:

(a) the Vendee and any lessee under any lease shall not assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America.

(b) such lease shall provide that the rights of such lessee are made expressly subordinate to the rights and remedies of the Vendee under this Agreement.

(c) the lessee under any such lease has complied with all provisions of Part 1036, Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations - Incentive per Diem Charges on Box Cars, and is eligible and entitled to the extent provided therein, to collect incentive per diem charges on the Equipment in the possession of other railroads, and to apply the incentive per diem charges to the payment of all rentals due under the lease.

(d) a copy of such lease shall be furnished to the Vendor.

The Vendee may receive and retain compensation (subject to the provisions of Article 4 hereof) for such use from other railroads and companies so using any of the Equipment.

Nothing in this Article 15 shall be deemed to restrict the right of the Vendee to assign or transfer its interest under this Agreement in the Equipment for possession of the Equipment to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Vendee hereunder) into or with which the Vendee shall have become merged or consolidated or which shall have acquired the property of the Vendee as an entirety or substantially as an entirety, provided that the assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Agreement; provided further that any such railroad corporation shall be of a character so that, after giving effect to any such transaction, the credit standing of the Vendee, assignee or transferee shall not, in the Vendor's reasonable judgment, be adversely affected as it may affect Vendor's rights hereunder.

ARTICLE 16. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be

required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due or delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 17. Indemnities and Warranties. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expense in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention of the Vendor of title to and a security interest in the Equipment, and the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, or any accident in

connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement. The covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the conveyance of security title to, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

The Vendee will bear the responsibility for and risk of and shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of any unit of or all the Equipment.

The agreement of the parties relating to the Builder's warranty and material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Exhibit B attached hereto and made a part hereof.

ARTICLE 18. Assignments. The Vendee will not (a) except as provided in Article 15 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Vendor hereunder (including, with-

out limitation, rights and remedies against the Vendee and the Guarantor) and (ii) provides that the Vendee shall remain liable for all the obligations of the Vendee under this Agreement. Subject to the preceding sentence, any such sale, assignment, transfer or disposition may be made by the Vendee without the assignee or transferee assuming any of the obligation of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee and the benefits arising from the undertakings of the Guarantor hereunder, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities contained or referred to in Article 17 hereof, or relieve the Vendee or the Guarantor of their respective obligations to the Builder contained in Articles 2, 3, 8, 10 and 17 hereof and this Article 18, or any other obligations which, according to its terms and context, is intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Vendee and the Guarantor, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee,

and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by Vendee and the Guarantor, respectively, of the notification of any such assignment, all payments thereafter to be made by the Vendee or the Guarantor under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Vendee and the Guarantor recognize that it is the custom of railroad equipment manufacturers or sellers to assign agreements of this character and understand that this Agreement, or of some of or all the rights of the Vendee hereunder, will be assigned to the Sun Life Insurance Company of America (the "Assignee") pursuant to an Agreement and Assignment of even date herewith. The Vendee and the Guarantor expressly represent, for the purpose of assurance to the Assignee or any other person, firm or corporation who may from time to time acquire this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee or any other future assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever

arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Guarantor by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Guarantor, as the case may be, against and only against the Builder.

The Vendee and the Guarantor will (a) in connection with the settlement for the Equipment, deliver to the assignee, at the time of the delivery of the Equipment, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, and (b) furnish to such assignee such number of counterparts of any other certificate or paper required by the Vendor as may reasonably be requested.

ARTICLE 19. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) The Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder and such default shall continue for 15 days; or

(b) The Vendee or the Guarantor shall, for more than 35 days after the Vendee shall have received written demand for performance

thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provisions satisfactory to the Vendor for such compliance; or

(c) Any material representation or warranty of the Vendee or the Guarantor in this Agreement shall prove to be incorrect in any material respect on the date as of which made; or

(d) Any proceeding shall be commenced by or against the Vendee or the Guarantor for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Vendee or the Guarantor under this Agreement), and the earlier of the following shall occur (i) such proceedings shall not have been dismissed, nullified, stayed or otherwise rendered ineffective within sixty (60) days after such proceedings shall have been commenced (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), or (ii) all the obligations of the Vendee or the Guarantor, as the case may be, under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Vendee or the Guarantor, as the case may be, or for their respective property in connection with any such proceedings, within 30 days after such appointments and in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers; or

(e) The Vendee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an event of de-

fault the Vendor may, upon receipt of written notice by the Vendee and the Guarantor and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a Declaration of Default) the entire unpaid indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee or the Guarantor wherever situated. The Vendee or the Guarantor, as the case may be, shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Vendee and the

Guarantor in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee and the Guarantor that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 20. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, in compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee or the Guarantor any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 20 expressly provided, and may remove the same from possession and use of the Vendee, any lessee or any other person and for such purpose may enter upon the premises of the Vendee or the Guarantor or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee or the Guarantor.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points on the lines or premises of the Vendee or on any lines of railroad or other premises approved by the Vendor for the delivery of the Equipment to the Vendor, the Vendee or the Guarantor shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points and shall there deliver the Equipment or cause it to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises which, or the use of which, are owned or controlled by the Vendee or the Guarantor, (directly or indirectly) or on any lines of railroad or other premises approved by the Vendor and reasonably convenient to Vendee and Guarantor for a period not exceeding six months, provided however, that such storage shall be on the lines of other railroads or other premises approved by Vendor if the storage on the Vendee's or Guarantor's line would interfere with the operation of the railroads of the Vendee and the Guarantor. The Vendee and the Guarantor agree either to provide the facilities necessary for such storage or to pay all costs and expenses of such storage, and that such storage shall be at no cost or expense to the Vendor. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall

be entitled to a decree against the Vendee and/or the Guarantor requiring specific performance hereof. The Vendee and the Guarantor hereby expressly waive any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 20 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Guarantor by telegram or registered mail, addressed as provided in Article 25 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee and the Guarantor may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to

be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement, including reasonable attorney's fees and all expenses of the Vendor on retaking possession of, removing, storing and holding the Equipment, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee, provided further, that if the Vendee or the Guarantor object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 20.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Vendee, the Guarantor and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Guarantor or any other party claim-

ing from, through or under the Vendee or the Guarantor at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The

Vendee and the Guarantor shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed as provided in Article 25 hereof. If such sale shall be a private sale, it shall be subject to the rights of the Vendee and the Guarantor to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. The Vendor, the Vendee or the Guarantor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. In the event that the Vendor shall be the purchaser thereof, it shall not be accountable to the Vendee or the Guarantor (except to the extent of surplus money received as hereinafter provided in this Article 20), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no re-

newal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee or the Guarantor shall not otherwise alter or affect the Vendor's rights or the Vendee's or the Guarantor's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's or the Guarantor's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee or the Guarantor, as the case may be, to the extent of their respective interests therein.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that

the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 20 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 21. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee and the Guarantor to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Vendee and the Guarantor, to the full extent permitted by law, hereby waive all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 22. Recording. The Vendee or the Guarantor

tor will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act; the Vendee or the Guarantor will also cause any financing statement with respect to this Agreement to be filed and recorded in the form and manner required by law in all offices and places necessary to perfect the lien on and security interest in the Equipment and Additional Security; and the Vendee and the Guarantor will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further information required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to and security interest in the Equipment, its security interest in the Additional Security and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement. The Vendee and the Guarantor will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 23. Payment of Expenses. The Vendee will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builder) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related hereto or thereto, including all fees and expenses of

counsel for the first assignee of the Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by a party of interests acquired in such first assignment.

ARTICLE 24. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Exhibits hereto, exclusively and completely states the rights of the Vendor, the Vendee and the Guarantor with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor, the Vendee and the Guarantor.

ARTICLE 25. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed in the United States by certified or registered mail to it at its chief place of business at the following specified addresses:

(a) to the Vendee, at 402, Cedar Rock Street, Pickens, South Carolina, 29671. Attention: Vice President-Finance.

(b) to the Guarantor, at 860 Suburban Station, 1617 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103,

(c) to the Builder, at P. O. Box 188, Berwick,

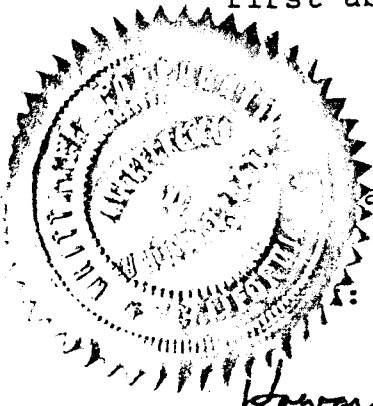
Pennsylvania, 18603.

(d) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, and to the Guarantor, by such assignee, or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 26. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Maryland; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 27. Execution. This Agreement may be executed in any number of counterparts numbered consecutively in ascending order, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart, but only the counterpart that is labeled "Counterpart No. 1" shall be deemed to be the original which may be transferred and given to transfer the rights of the Vendor hereunder. Although this Agreement is dated as of the date first above written, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF the parties hereto have executed
or caused this instrument to be executed all as of the date
first above written.



[Corporate Seal]

Howard E. McKinnon

[Corporate Seal]

WHITTAKER CORPORATION (BERWICK FORGE
& FABRICATING DIVISION)

By

1. Dennis F. Fosse
Authorized Signatory

By

[Signature]
Authorized Signatory

PICKENS RAILROAD COMPANY

By

[Signature]
Vice President

Attest:

Charles P. Tumbake
Atty. & Sec.

NATIONAL RAILWAY UTILIZATION
CORPORATION

By

[Signature]
Vice President

[Corporate Seal]

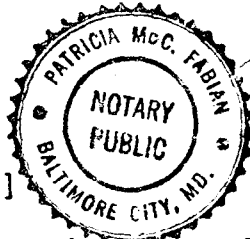
Attest:

Charles P. Tumbake
Atty. & Sec.

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY, that on this 29th day of December, 1976, before the subscriber, a Notary Public in and for said City and State personally appeared *John A. Harisatti*, who, being by me duly sworn, says that he is a Vice President of Pickens Railroad Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand
and official seal, this 29th day of December, 1976.



[Notarial Seal]

Notary Public

My Commission expires: July 1, 1978

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY, that on this 29th day of December, 1976, before the subscriber, a Notary Public in and for said City and State personally appeared John A. Truscatti, who, being by me duly sworn, says that he is a Vice President

Exhibit A
to
Conditional Sale Agreement

<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
70 ton, 50'6" Class XM boxcars	70 ton, 50'6" single sheaved boxcars with outside posts, 10'0" slidding doors, rigid underframe, Class XM, as further described in Builder's Specifications for Vendee, Lot 34100, dated November 17, 1976	50	NHIR601-650	\$30,995	\$1,549,750	December 30, 1976 at Renovo, Pennsylvania

Exhibit B

to

Conditional Sale Agreement

Warranty of Builder

The Builder warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Article 2 and Exhibit A of the Conditional Sale Agreement to which this Warranty is attached (hereinafter called the Agreement) and warrants its Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Vendee and not manufactured by the Builder) and workmanship and design (except as to designs specified by the Vendee and not developed by the Builder) under normal use and service, the Builder's obligation under this Warranty being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit of Equipment to the Vendee, be returned to the Builder with transportation charges prepaid and which examination by the Builder shall disclose to its satisfaction to have been thus defective. In no event shall the Builder be liable to anyone for any incidental, special or consequential damages of any kind.

THE FOREGOING WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND THE BUILDER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT EXCEPT FOR THE PATENT INDEMNIFICATION STATED BELOW.

The Builder shall defend at its expense any suit or proceeding brought against the Vendee based upon any claims that the Equipment (or any part thereof) which is manufactured under this Agreement infringes any United States patent, and pay any damages and costs awarded therein against the Vendee, not to exceed the contract price paid to the Builder by the Vendee, if properly notified by the Vendee in writing of such claims and given authority, information and assistance by the Vendee to conduct such defense. If in such suit the use of the Equipment (or any part thereof) is enjoined, Builder shall either at its expense and option procure for the Vendee the right to use the Equipment (or any part thereof), or modify them so that they no longer infringe, or replace them

of like type and quality and entitled to the same boxcar daily charges, per line-haul mile charges and incentive per diem charges then in effect for the Equipment.

The Builder further agrees with the Vendee that neither the inspection provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of its Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Vendee of any of its rights under this Warranty.

Exhibit C

to

Conditional Sale Agreement

BOXCAR HIRE RATE TABLE
As Prescribed in I.C.C. Docket No. 33145, Circular No. OT-10-I

	*0-30 YEARS	*0-5 YEARS	*6-10 YEARS	*11-15 YEARS	*16-20 YEARS	*21-25 YEARS
COST OF BOXCAR (DOLLARS)	CHARGE PER LINE-HAUL MILE (CENTS)	DAILY TIME CHARGE (DOLLARS)	DAILY TIME CHARGE (DOLLARS)	DAILY TIME CHARGE (DOLLARS)	DAILY TIME CHARGE (DOLLARS)	DAILY TIME CHARGE (DOLLARS)
000000 - 001000	2.31	1.47	1.43	1.39	1.35	1.31
001001 - 003000	2.38	1.77	1.69	1.61	1.53	1.45
003001 - 005000	2.51	2.36	2.20	2.04	1.89	1.73
005001 - 007000	2.65	2.96	2.72	2.48	2.24	2.00
007001 - 009000	2.78	3.55	3.23	2.92	2.60	2.28
009001 - 011000	2.92	4.14	3.75	3.35	2.96	2.56
011001 - 013000	3.05	4.74	4.26	3.79	3.31	2.84
013001 - 015000	3.19	5.33	4.78	4.22	3.67	3.11
015001 - 017000	3.32	5.93	5.29	4.66	4.02	3.39
017001 - 019000	3.45	6.52	5.81	5.09	4.38	3.67
019001 - 021000	3.59	7.11	6.32	5.53	4.74	3.95
021001 - 023000	3.72	7.71	6.84	5.97	5.09	4.22
023001 - 025000	3.86	8.30	7.35	6.40	5.45	4.50
025001 - 027000	3.99	8.90	7.87	6.84	5.81	4.78
027001 - 029000	4.13	9.49	8.38	7.27	6.16	5.05
029001 - 031000	4.26	10.09	8.90	7.71	6.52	5.33
031001 - 033000	4.40	10.68	9.41	8.14	6.88	5.61
033001 - 035000	4.53	11.27	9.93	8.58	7.23	5.89

*Age of boxcar from date of purchase.

Exhibit D

to

Conditional Sale Agreement

Incentive Per Diem Charges on Class XM Boxcars
Part 1036, Subchapter A of Chapter X of Title 49 of
the Code of Federal Regulations

Cost of Boxcar	**Group A 0-5 years	**Group B 6-10 years	**Group C 11-15 years	**Group D 16-20 years	**Group E 21-25 years	**Group F 26-30 years	**Group G over 30 years
\$29,000-\$31,000*	9.74	8.16	6.58	5.00	3.42	1.84	1.05
\$31,000-\$33,000*	10.39	8.70	7.02	5.33	3.65	1.96	1.19

*The above figures represent the incentive per diem charges on Class XM boxcars for the period of September 1 through and including February 28; for the remainder of the year, the incentive per diem charge on Class XM boxcars is zero.

**Age of boxcar from date of purchase.